

1 BILL NO. Z-85- 67-21

2 ZONING MAP ORDINANCE NO. Z- 16-85

3 AN ORDINANCE amending the City of
4 Fort Wayne Zoning Map No.G-2.

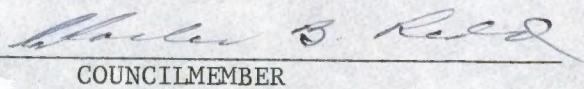
5 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
6 WAYNE, INDIANA:

7 SECTION 1. That the area described as follows is hereby
8 designated a P.O.D. (Professional Office District) District under the
9 terms of Chapter 33 of the Code of the City of Fort Wayne, Indiana
10 of 1974:

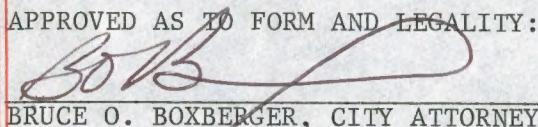
11 Part of the Southeast quarter of LaGro Section (Reserve)
12 in Township 30 North, Range 12 East, Allen County, more
13 particularly described as follows: Beginning on the
14 centerline of U.S. Highway #24 at a point located by
15 deed 1005 feet Southwesterly from the intersection
16 of said centerline with the North line of said
17 Southeast quarter; thence North 51 degrees 30 minutes
18 East (Indiana State Highway Commission Bearing and is
19 used as the basis for the bearings in this description)
20 on and along said centerline, 240.2 feet; thence South
21 38 degrees 26 minutes 30 seconds East (recorded South
22 39 degrees 20 minutes East), on and along a line
23 established by survey monuments found, 424.5 feet
24 (recorded 425 feet) to the Northeasterly corner of
Lot #12 in North Washington Place Addition to the
City of Fort Wayne, Indiana; thence South 62 degrees
39 minutes West on and along the Northerly line of
said Lot #12, a distance of 204.2 feet; thence
Northwesterly, on and along the arc of a regular
curve to the right having a radius of 1643.7 feet,
an arc length of 387.91 feet (recorded 386.6 feet)
(the chord of which bears North 44 degrees 21 minutes
West for a distance of 387.01 feet) to the point of
beginning, containing 2.106 acres of land, subject to
legal rights-of-way for U.S. Highway #24 and all easements
of record

25 and the symbols of the City of Fort Wayne Zoning Map No. G-2, as established
26 by Section 11 of Chapter 33 of the Code of the City of Fort Wayne,
27 Indiana are hereby changed accordingly.

28 SECTION 2. That this Ordinance shall be in
29 full force and effect from and after its passage and approval by the
30 Mayor.

31 
32 COUNCILMEMBER

33 APPROVED AS TO FORM AND LEGALITY:

34 
35 BRUCE O. BOXBERGER, CITY ATTORNEY

Read the first time in full and on motion by Redd, seconded by Dalton, and duly adopted, read the second time by title and referred to the Committee Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on 19, the 19 day of December, at 10 o'clock A.M., E.

DATE: 7-23-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Redd, seconded by Dalton, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u>—</u>	<u>—</u>	<u>1</u>	<u>—</u>
<u>BRADBURY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>BURNS</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>EISBART</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>GiaQUINTA</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>HENRY</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>REDD</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>SCHMIDT</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>STIER</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>TALARICO</u>	<u>✓</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>

DATE: 12-10-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 3-16-85
on the 10th day of December, 1985,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

James S. Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 16th day of December, 1985, at the hour of 11:00 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of December, 1985, at the hour of 8:30 o'clock A.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

PETITION FOR ZONING ORDINANCE AMENDMENT

RECEIPT NO. _____

DATE FILED _____

INTENDED USE _____

THIS IS TO BE FILED IN DUPLICATEI/We Richard and Adam LaMar
(Applicant's Name or Names)do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an RA District to a/an POD District the property described as follows:

2.106 acres in the Southeast quarter of LaGro Reserve, Township 30 North, Range 12 East, Allen County, Indiana. Said property is approximately 240 feet by 424 feet lying Southeast of U.S. Highway 24 located approximately 1000 feet Southwesterly from the intersection of the centerline of U.S. Highway 24 with the North line of said Southeast quarter.

(Legal Description) If additional space is needed, use reverse side.

ADDRESS OF PROPERTY IS TO BE INCLUDED: 4101 West Jefferson

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

Richard LaMar5126 Indiana, Fort Wayne Richard R. LaMar
2726 Smith Road Adam C. LaMar

(Name)

(Address)

(Signature)

(If additional space is needed, use reverse side.)

Legal Description checked by _____

(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinance being sent to the newspaper for legal publication. If the request for deferral, continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matter for hearing before the City Plan Commission. (FILING FEE \$50.00)

Name and address of the preparer, attorney or agent.

Mark L. Strong
(Name)Turnbell Engineering Co., Inc.
519 Tennessee Avenue, Fort Wayne (219)422-4630
(Address & Zip Code) (Telephone Number)

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street, Fort Wayne, IN 46802 (PHONE: 219/427-1140).

Applicants, Property owners and preparer shall be notified of the Public Hearing approximately ten (10) days prior to the meeting.

1
I
LEGAL DESCRIPTION

Part of the Southeast quarter of LaGro Section (Reserve) in Township 30 North, Range 12 East, Allen County, Indiana, more particularly described as follows: Beginning on the centerline of U.S. Highway #24 at a point located by deed 1005 feet Southwesterly from the intersection of said centerline with the North line of said Southeast quarter; thence North 51 degrees 30 minutes East (Indiana State Highway Commission Bearing and is used as the basis for the bearings in this description) on and along said centerline, 240.2 feet; thence South 38 degree 26 minutes 30 seconds East (recorded South 39 degrees 20 minutes East), on and along a line established by survey monuments found, 424.5 feet (recorded 425 feet) to the Northeasterly corner of Lot #12 in North Washington Place Addition to the City of Fort Wayne, Indiana; thence South 62 degrees 39 minutes West on and along the Northerly line of said Lot #12, a distance of 204.2 feet; thence Northwesterly, on and along the arc of a regular curve to the right having a radius of 1643.7 feet, an arc length of 387.91 feet (recorded 386.6 feet) (the chord of which bears North 44 degrees 21 minutes West for a distance of 387.01 feet) to the point of beginning, containing 2.106 acres of land, subject to local right-of-way for U.S. Highway #24 and all easements of record.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on July 23, 1985, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-85-07- 21; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July, 15, 1985;

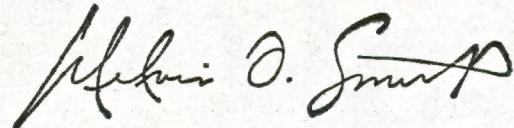
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact":

- (1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;
- (3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,
- (5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held August 26, 1985.

Certified and signed this
1st day of November 1985.



Melvin O. Smith
Secretary

COPY

85-31653

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR REAL ESTATE IN SECTION 7,
TOWNSHIP 30 NORTH, RANGE 12 EAST, ALLEN COUNTY, INDIANA

WHEREAS, John A. Samczyk and Carlene L. Samczyk, have contracted to purchase a certain parcel of real estate in Allen County, Indiana, more particularly described in Exhibit "A", attached hereto, and by this reference incorporated herein;

WHEREAS, Adam Lamar and Richard Lamar are the owners of the parcel of real estate described in Exhibit "A", attached hereto, have contracted for the sale of said real estate to John A. Samczyk and Carlene L. Samczyk;

WHEREAS, John A. Samczyk and Carlene L. Samczyk, being desirous of developing the attached described parcel of real estate into an office park, have petitioned the Fort Wayne City Plan Commission for a zoning ordinance amendment to permit such use, said petition bearing number Z-85-07-21, and following the hearing on said petition held on August 26, 1985, the Fort Wayne City Plan Commission did recommend "do pass" with regard to said zoning ordinance amendment, with the condition that certain covenants be submitted running with the land, all as further described herein;

WHEREAS, in compliance with said conditions and to provide for the harmonious and best use of the said parcel of real estate, John A. Samczyk and Carlene L. Samczyk are desirous of imposing said covenants, conditions and restrictions upon said parcel of real estate, and Adam Lamar and Richard Lamar are in agreement therewith:

NOW, THEREFORE, the undersigned hereby declare that the attached described parcel of real estate, or any subdivision thereof, shall be limited as follows:

A. The undersigned will dedicate to the City of Fort Wayne an easement for the construction of a 40-foot frontage road along the south right-of-way line of West Jefferson Boulevard.

B. The undersigned will cause all obstructions to be removed from said easement prior to the construction of the above-described 40-foot frontage road.

C. The undersigned agree that the above-described frontage road along the south side of West Jefferson Boulevard right-of-way will be constructed at such time as requested by the Department of Traffic Engineering of the City of Fort Wayne.

DULY ENTERED FOR TAXATION

OCT 29 1985

INSTRUMENT

8678

Gloria J. Goglein
AUDITOR OF ALLEN COUNTY

Allen County Auditor
16-11-1985

1985 OCT 29 PM 1:13

D. Any curb cuts from the described real estate onto West Jefferson Boulevard shall be approved with any appropriate conditions by the City of Fort Wayne Department of Traffic Engineering. Any such curb cuts shall be subject to be closed by the Department of Traffic Engineering upon completion of the frontage road without compensation to the owners or occupants of the parcel of real estate described herein.

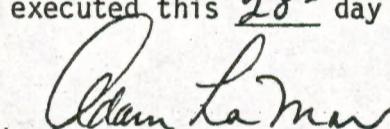
E. The undersigned agree that said parcel of real estate shall be subject to a 15-foot setback from the easement for the above-described frontage road for the location of buildings. No building on the real estate described in Exhibit "A" shall be located closer than 15 feet from the above easement.

F. The undersigned agree to pay all costs and expenses for the engineering and construction of the portion of the frontage road that is on the real estate described in Exhibit "A" and referred to in Provision "A" of this agreement.

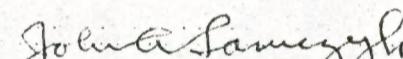
G. This Declaration of Covenants, Conditions and Restrictions for Real Estate shall be construed to run with the land described in Exhibit "A" and shall be binding upon the undersigned, their heirs, successors in interest and assigns.

H. The undersigned agree that if it becomes necessary for the City of Fort Wayne, Indiana, to initiate a lawsuit to enforce the terms of this Declaration of Covenants, Conditions and Restrictions for Real Estate, that damages are insufficient and hereby agree that the City of Fort Wayne has the right to injunctive relief and specific performance of this Declaration along with reasonable attorney fees for the breach hereof.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed this 28th day of Oct., 1985.



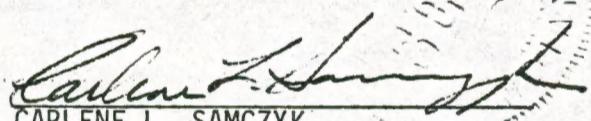
ADAM LAMAR



JOHN A. SAMCZYK



RICHARD LAMAR

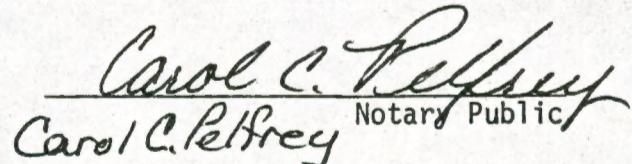


CARLENE L. SAMCZYK

Before me personally appeared Adam Lamar, Richard Lamar, John A. Samczyk and Carlene L. Samczyk and acknowledged their voluntary execution of this Agreement.

My Commission expires: 2-2-89

Resident: Allen County



Carol C. Petrey
Notary Public

This instrument prepared by: Attorney Steven R. Shine, 2810 Beaver Avenue, Fort Wayne, Indiana 46807
(219) 745-1970

EXHIBIT "A"

LEGAL DESCRIPTION

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ORIGINAL

DIGEST SHEET

ORIGINAL

TITLE OF ORDINANCE Zoning Ordinance Amendment 3-85-07-21DEPARTMENT REQUESTING ORDINANCE Land Use Management - CD&PSYNOPSIS OF ORDINANCE A 2.106 acres parcel, lying Southeast of U.S. 24located approximately 1000 feet Southwesterly from the intersection of the centerlineof U.S. 24 with the North line of said South East quarter of LaGro Reserve, commonlyknown as 410⁶ West Jefferson.EFFECT OF PASSAGE Property is presntly zoned RA - Suburban Residential.Property will become a POD - Professional Office District.EFFECT OF NON-PASSAGE Property will remain RA - Suburban Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

ASSIGNED TO COMMITTEE (J.N.) _____

FACT SHEET

Z-85-07-21

BILL NUMBER**Division of Community
Development & Planning**

<u>BRIEF TITLE</u>	<u>APPROVAL DEADLINE</u>	<u>REASON</u>																																
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<table border="1"> <thead> <tr> <th colspan="2">DETAILS</th> <th>POSITIONS</th> <th>RECOMMENDATIONS</th> </tr> </thead> <tbody> <tr> <td colspan="2"> Specific Location and/or Address 4106 West Jefferson </td> <td>Sponsor</td> <td>City Plan Commission</td> </tr> <tr> <td colspan="2"> Reason for Project To establish professional offices at this location. </td> <td>Area Affected</td> <td>City Wide Other Areas</td> </tr> <tr> <td colspan="2"> Discussion (Including relationship to other Council actions) <u>July 15, 1985 - Public Hearing</u> </td> <td>Applicants/ Proponents</td> <td>Applicant(s) Carlene Samczyk Richard & Adam LaMar City Department Other</td> </tr> <tr> <td colspan="2"> Carlene Samczyk, 6418 West Hamilton Road, the owner of Century 21 Aboite Realtors located at 2827 Getz Road. Ms. Samczyk stated she is requesting the rezoning to establish an office park. She stated that it was inconceivable to her that this land could be considered for residential use at this time. She stated that many of the properties which front on West Jefferson along this area are being used for commercial or office use. She stated that there are several businesses which start at Ardmore Avenue and come up to this property. She stated that within a few blocks of this property there are also numerous office buildings and across the street is a commercially zoned site. </td> <td>Opponents</td> <td> Groups or Individuals Wildwood Park Neighborhood Assn. Basis of Opposition -commercial would have adverse impact -would increase traffic </td> </tr> <tr> <td colspan="2"> Ms. Samczyk presented the Commission with drawings of the proposed buildings. She stated that there would be two such buildings on the property if it were rezoned. 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DETAILS

Grant Shipley, 3322 North Washington Road, President of the Wildwood Park Association stated that he has been unable to meet with the petitioners because it is difficult to obtain a quorum of members in the summer. He stated that he has spoken with members of the board and they are trying to keep the south side of West Jefferson non-commercial. He stated they are opposed to the rezoning of the property for a commercial use. He stated that it is zoned all RA on the south side. He stated it may well be zoned for commercial on the North side but to date no commercial has been built. He stated that the nearest commercial development is Park West Shopping Center which is a neighborhood shopping center. He stated that even though there are offices along a portion of West Jefferson on the south side these have been put in by variance and with restrictive covenants which are controlled by the Wildwood Park Association.

There was no one present who wished to speak in favor of or in opposition to the proposed rezoning.

August 26, 1985 - Business Meeting

Of the nine members present 8 voted in favor of a Do PASS recommendation with the following conditions:

- 1) Provide a 40-foot easement for a frontage road and a 15-foot setback from the frontage road for buildings and parking lots;
- 2) Provide an agreement to construct the frontage road at such time when the City determines it is required, and to remove any and all obstructions;
- 3) There should be no more than one (1) identification sign designating the office park. This sign should not be located in the required front yard. Size of sign not to exceed 32 square feet and height not to exceed 6 feet;
- 4) Provide a revised landscape and screening plan for review and approval of C.D. & P. staff;
- 5) Provide a revised design and layout of parking lots and incorporate curbed planting islands between parking areas and the driveway;
- 6) Attempt should be made to retain as many trees as possible;
- 7) Landscape screen be provided for the parking lots fronting upon the north property line;
- 8) The floor area not exceed 18,000 square feet

These conditions have been agreed to by the petitioners and a recorded restrictive covenant

POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

to that effect has been submitted to the Plan Commission a copy of which is attached to the original ordinance and is on file in the Plan Commission Office.

Project Start

Date July 14, 1985

Projected Completion or Occupancy

Date November 4, 1985

Fact Sheet Prepared by

Date November 4, 1985

Patricia A. Biancaniello

Reviewed by

Date

Gary Buxton
Reference or Case Number

11/4/85

RECEIPT

check # 7533

No 12019

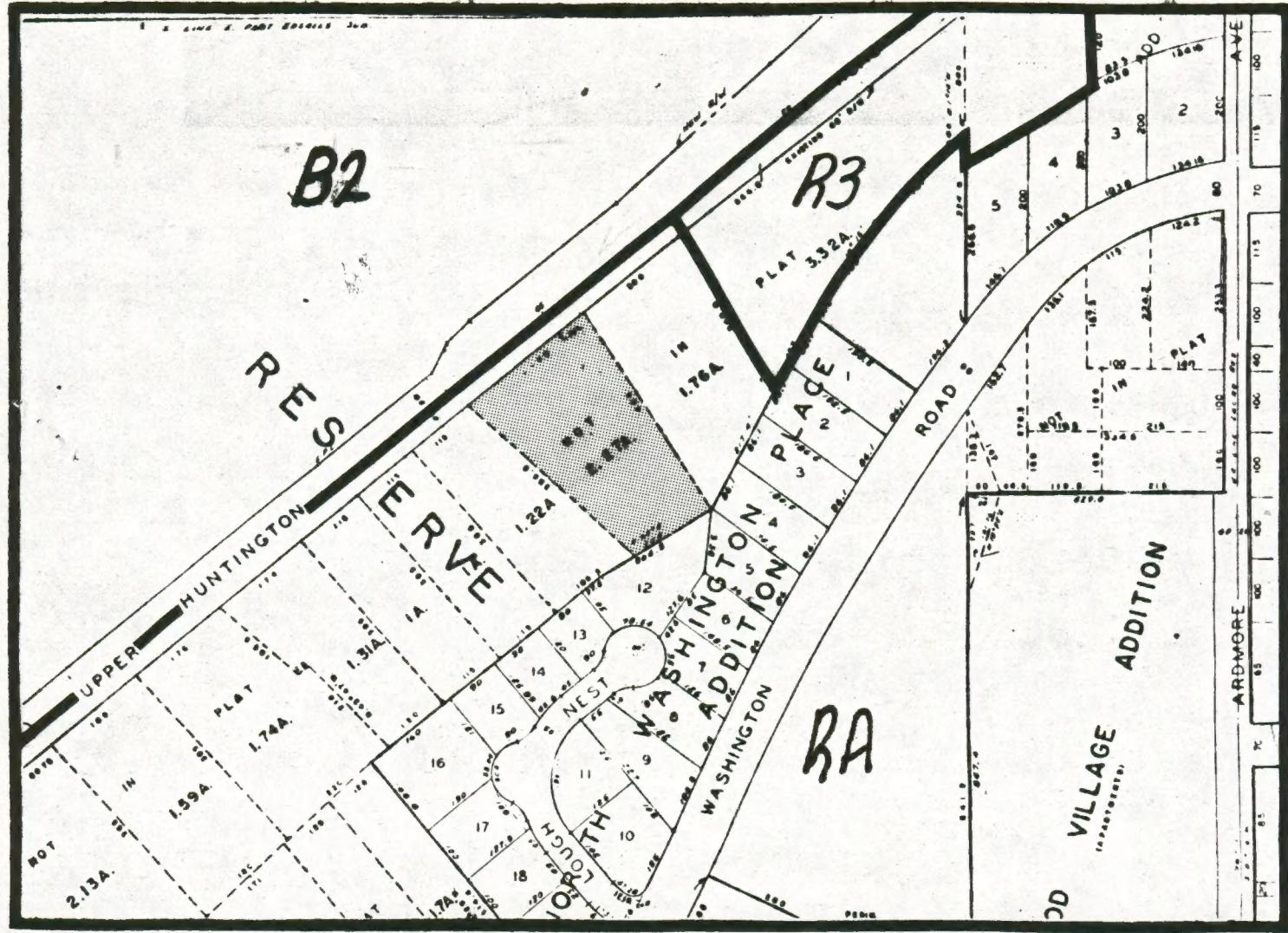
COMMUNITY DEVELOPMENT & PLANNING

FT. WAYNE, IND. 6-14 1985

RECEIVED FROM Abolite Reactions \$50.00THE SUM OF F. fly + 00/100 100 DOLLARSON ACCOUNT OF Region - 4101 W. Jefferson
from RA to PODB. Steele

AUTHORIZED SIGNATURE

GENERAL LOCATION MAP FOR 4101 W. JEFFERSON

Zoning:

RA RESIDENCE A
 R3 RESIDENTIAL DISTRICT
 B2 PLANNED SHOPPING CENTER

Land Use:

Bill No. Z-85-07-21



70

Scale: 1" = 150'

Date: 6-20-85

*Letter to
Chairman - parts
ordinance ready*

BILL NO. Z-85-07-21

*hold for
12/10/85*

REPORT OF THE COMMITTEE ON

REGULATIONS

WE, YOUR COMMITTEE ON

REGULATIONS

TO WHOM WAS

REFERRED AN (ORDINANCE) (RESOLUTION) AN ORDINANCE amending the

City of Fort Wayne Zoning Map No. G-2.

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)
(RESOLUTION) _____

YES

NO

Charles B. Redd

CHARLES B. REDD
CHAIRMAN

Janet G. Bradbury

JANET G. BRADBURY
VICE CHAIRWOMAN

Judith

JAMES S. STIER

Beth

BEN A. EISBART

Donald J. Schmidt

DONALD J. SCHMIDT

CONCURRED IN 12-10-85

SANDRA E. KENNEDY
CITY CLERK